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EBAY INC.
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,
12 Plaintiff,
13 v.
14 SHAWN HOGAN,
15 Defendant.

Case No. CR 10-0495 JF (PSG)

**STIPULATION AND [~~PROPOSED~~]
ORDER REMOVING FROM CALENDAR
EBAY'S MOTION TO QUASH
DEFENDANT SHAWN HOGAN'S
SUBPOENA TO PRODUCE DOCUMENTS
OR OBJECTS IN A CRIMINAL CASE**

Hearing Date: May 19, 2011
Time: 1:30 p.m.
Place: Courtroom 5, 4th Floor
Judge: Hon. Paul Singh Grewal

1 Pursuant to Civil Local Rules 6-2 and 7-12, and Criminal Local Rule 47-4, Defendant
2 Shawn Hogan and Third-Party Movant eBay Inc., by and through their respective attorneys,
3 hereby stipulate as follows:

4 1. On January 25, 2011, Hogan served on eBay a Subpoena *duces tecum* authorized
5 by this Court under Federal Rule of Criminal Procedure 17(c) (hereinafter "Hogan's Subpoena").

6 2. On February 8, 2011, eBay filed a Motion to Quash Hogan's Subpoena, which was
7 set for hearing on March 17, 2011.

8 3. On March 9, 2011, Hogan and eBay stipulated to continue the hearing on eBay's
9 Motion to Quash until April 21, 2011, and, on March 14, 2011, the Court ordered this
10 continuance. (Docket 31.)

11 4. On April 11, 2011, Hogan and eBay stipulated to continue the hearing on eBay's
12 Motion to Quash until May 19, 2011, and, on April 13, 2011, the Court ordered this continuance.
13 (Docket 33.)

14 5. eBay and Hogan have met and conferred in order to resolve Hogan's Subpoena
15 and eBay's Motion to Quash without Court intervention.

16 6. Rather than litigating Hogan's Subpoena and eBay's Motion to Quash, eBay and
17 Hogan have agreed on the production of certain documents by eBay to Hogan. This production
18 will be pursuant to a Stipulated Protective Order, the terms of which eBay, the United States, and
19 Hogan have agreed upon. The Stipulated Protective Order is being filed concurrently with this
20 Stipulation.

21 7. By producing certain documents to Hogan, eBay does not waive, or intend to
22 waive, its objections to Hogan's Subpoena, as set forth in its Motion to Quash.

23 8. eBay and Hogan have agreed that Hogan's Subpoena will be withdrawn after
24 Hogan receives the above-referenced production, thereby mooted eBay's Motion to Quash. The
25 parties agree that the withdrawal of Hogan's Subpoena shall be filed promptly upon receipt of
26 eBay's production. With regard to trial subpoenas for documents, nothing in this Stipulation does
27 or is intended to prevent Hogan from serving a new document trial subpoena on eBay, including
28 after seeking Court approval under Fed. R. Crim. Proc. 17, if required, although it is the parties'

joint intention that the current negotiations and resulting agreements and production have resolved the requests in the currently pending subpoena. eBay reserves all rights to oppose any future subpoenas.

THEREFORE, the Parties hereby jointly request that the hearing on eBay's Motion to Quash, currently scheduled for May 19, 2011, shall be taken off calendar. Hogan's request to withdraw his subpoena will follow.

Dated: May 9, 2011

DAVID R. EBERHART
SHARON M. BUNZEL
O'MELVENY & MYERS LLP

By: /s/ Sharon M. Bunzel

Sharon M. Bunzel
Attorneys for Third-Party Movant
eBay Inc.

Dated: May 9, 2011

WILLIAM P. KEANE
PAUL A. ALSDORF
FARELLA BRAUN & MARTEL LLP

By: /s/ Paul A. Alsdorf

Paul A. Alsdorf
Attorneys for Defendant
Shawn Hogan

Filer's Attestation: In compliance with General Order 45(X)(B), I hereby attest that concurrence in the filing of this document has been obtained from Paul A. Alsdorf.

Dated: May 9, 2011

SHARON M. BUNZEL
O'MELVENY & MYERS LLP

By: /s/ Sharon M. Bunzel

Sharon M. Bunzel
Attorneys for Third-Party Movant
eBay Inc.

1 **PURSUANT TO STIPULATION, IT IS SO ORDERED.**

2
3 DATED 5/10/2011


4 HON. PAUL SINGH GREWAL
5 UNITED STATES MAGISTRATE JUDGE
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